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DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville MD 20857

OIPE JC26
NOV 04 2002
PATENT & TRADEMARK OFFICE

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OFFICE OF PETITIONS

Re: Evoxac
Docket No.: 01E-0405

The Honorable James E. Rogan
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Box Pat. Ext.
P.O. Box 2327
Arlington, VA 22202

OCT 31 2002

Dear Director Rogan:

This is in regard to the application for patent term extension for U.S. Patent No. 4,855,290, filed by the State of Israel, Israel Institute for Biological Research, under 35 U.S.C. section 156 et seq. We have reviewed the dates contained in the application and have determined the regulatory review period for Evoxac, the human drug product claimed by the patent.

The total length of the regulatory review period for Evoxac is 1,733 days. Of this time, 1,230 days occurred during the testing phase and 503 days occurred during the approval phase. These periods of time were derived from the following dates:

1. The date an exemption under subsection 505(i) of the Federal Food, Drug, and Cosmetic Act involving this drug product became effective: April 16, 1995.

   The applicant claims March 17, 1995, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was April 16, 1995, which was thirty days after FDA receipt of the IND.

2. The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act: August 27, 1998.

   The applicant claims August 26, 1998, as the date the new drug application (NDA) for Evoxac (NDA 20-989) was initially submitted. However, FDA records indicate that NDA 20-989 was submitted on August 27, 1998.

3. The date the application was approved: January 11, 2000.

   FDA has verified the applicant's claim that NDA 20-989 was approved on January 11, 2000.

This determination of the regulatory review period by FDA does not take into account the effective date of the patent, nor does it exclude one-half of the testing phase as required by 35 U.S.C. section 156(c)(2).

Please let me know if we can be of further assistance.

Sincerely yours,

Jane A. Axelrad

Jane A. Axelrad
Associate Director for Policy
Center for Drug Evaluation and Research

cc: Paul E. White
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